



AUSTRALIAN  
CATHOLIC  
COMMISSION FOR  
EMPLOYMENT  
RELATIONS

Australian Industrial Relations Commission  
Safety Net Review - 2005



9 MARCH 2005



SUBMISSION

**AUSTRALIAN CATHOLIC COMMISSION FOR EMPLOYMENT RELATIONS**  
**SUBMISSION TO AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION**  
**SAFETY NET REVIEW CASE 2005**

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**Introduction**

1. The annual Safety Net Review Case in the Australian Industrial Relations Commission (“the Commission”) occupies a central position in Australian employment law and industrial relations. Wage increases are granted by the Commission following an open hearing in which a variety of parties and interveners tender evidence and make submissions. Wage increases result from a consideration of equity and fairness and of economic factors. About 20% of Australian workers depend on these cases because they do not have the ability to bargain for higher rates of pay than the minimum rates prescribed by their industrial awards. Accordingly, each annual Safety Net Review plays an important role in the social and economic fabric of Australian life.
2. This case arises out of claims made by various affiliates of the Australian Council of Trade Unions (“the ACTU”), on whose behalf the ACTU acts. The claims (“the ACTU claim”) are the same: a \$26.60 per week increase in all award rates of pay. The awards contain a number of rates of pay for various kinds of work classifications. The Federal Minimum Wage is the lowest rate that may be fixed by an award. The lowest rate of pay fixed by many awards is in excess of this rate. The Federal Minimum Wage is now \$467.40 per week (for 38 hours) or \$12.30 per hour. If granted, the ACTU claim would increase the Federal Minimum Wage to \$494.00 per week or \$13.00 per hour.
3. The Australian Catholic Commission for Employment Relations (“ACCER”) supports an increase of \$26.60 per week in the Federal Minimum Wage. In the

adjustment of other award rates of pay the primary beneficiaries should be those in the lower paid classifications of the award system.

### **ACCER's Intervention**

4. ACCER is a body established by the Australian Catholic Bishops' Conference and supported by the Australian Conference of Leaders of Religious Institutes. Its Terms of Reference are to provide the Conference and Catholic Church organisations with advice, research and advocacy on matters affecting employment in Australian workplaces, within the context of Catholic social teaching.
5. The Catholic Church in Australia is also a major employer engaged in diocesan and parish administration, pastoral care, education (primary, secondary and tertiary), health and aged care and community services sectors. The Church as an employer is guided by Catholic social teaching.
6. ACCER has intervened in this and earlier similar cases because of the Catholic Church's teachings on social and economic justice and its concern for low paid workers in Australia. This concern is reflected in the emphasis that ACCER places on the Federal Minimum Wage.

### **Catholic Social Teaching**

7. The Commission's function in this case requires the consideration of values and economic circumstances. The parties and interveners in this case bring different values and perspectives. For this reason it is important to understand the basis upon which ACCER makes its submissions.

8. ACCER's submission is based upon the principles contained within Catholic social teaching. "The permanent principles of the Church's social doctrine constitute the very heart of Catholic social teaching. These are the principles of the *dignity of the human person* ...; the *common good*; *subsidiarity*; and *solidarity*"; Pontifical Council for Justice and Peace, *Compendium of the Social Doctrine of the Church*, 2004, paragraph 160.
9. An essential element in Catholic social teaching is the consideration given to the protection of the poor and vulnerable. Generally, this is referred to as the "preferential option for the poor". The term is a modern one that is used to refer to what the Scriptures and the Catholic Church's tradition have to say about the special place of society's outcasts, the powerless and the poverty-stricken.
10. Catholic teaching on the spiritual, economic and social aspects of modern industrial societies has its genesis in Pope Leo XIII's 1891 encyclical *Rerum Novarum*. *Rerum Novarum* "expounds ... the Catholic doctrine on work, the right to property, the principle of collaboration instead of class struggle as the fundamental means for social change, the rights of the weak, the dignity of the poor and the obligations of the rich, the perfecting of justice through charity, on the right to form professional associations"; Congregation for Catholic Education, *Guidelines for the Study and Teaching of the Church's Social Doctrine in the Formation of Priests*, 1988, page 24.
11. The Church's social doctrine has been re-affirmed in various papal encyclicals and other teachings, sometimes commemorating an anniversary of *Rerum Novarum*. Part of the purpose of these later teachings is to reflect on the contemporary context.

## The Just Wage

12. Most relevant to the present case is the teaching that wages should be sufficient to support the worker and the worker's family and that wages should not be solely determined by the market. On the centenary of *Rerum Novarum* the Australian Catholic Bishops issued a Pastoral letter in which they referred to the need for adequate wages:

“It was his [Pope Leo XIII's] view that human society is built upon and around productive human work. When a person is employed to work full-time for wages, the employer, in strict justice, will pay for an honest day's work a wage sufficient to enable the worker, even if unskilled, to have the benefits of survival, good health, security and modest comfort. The wage must also allow the worker to provide for the future and acquire the personal property needed for the support of a family. To pressure or trick the worker into taking less is, therefore, unjust.”

13. In his 1961 encyclical *Mater et Magistra* Pope John XXIII wrote:

“We consider it our duty to reaffirm that the remuneration of work is not something that can be left to the laws of the marketplace; nor should it be a decision left to the will of the more powerful. It must be determined in accordance with justice and equity; which means that workers must be paid a wage which allows them to live a truly human life and to fulfill their family obligations in a worthy manner.

Other factors too enter into the assessment of a just wage: namely, the effective contribution which each individual makes to the economic effort, the financial state of the company for which he works, the requirements of the general good of the particular country ... and finally the requirements of the common good of the universal family of nations ...” (*Mater et Magistra*, paragraph 71).

14. In *Laborem Exercens* Pope John Paul II, on the ninetieth anniversary of *Rerum Novarum*, referred to the various rights formed within the employment relationship:

“The key problem of social ethics in this case is that of *just remuneration* for work done. In the context of the present there is no more important

way for securing a just relationship between the worker and the employer than that constituted by remuneration for work....

It should also be noted that the justice of a socioeconomic system and, in each case, its just functioning, deserve in the final analysis to be evaluated by the way in which man's work is properly remunerated in the system.... Hence, in every case, a just wage is the concrete means of *verifying the justice* of the whole socioeconomic system and, in any case, of checking that it is functioning justly. It is not the only means of checking, but it is a particularly important one and, in a sense, the key means.

This means of checking concerns above all the family. Just remuneration for the work of an adult who is responsible for a family means remuneration which will suffice for establishing and properly maintaining a family and for providing security for its future. Such remuneration can be given either through what is called a *family wage* - that is, a single salary given to the head of the family for his work, sufficient for the needs of the family without the other spouse having to take up gainful employment outside the home - or through *other social measures* such as family allowances or grants to mothers devoting themselves exclusively to their families. These grants should correspond to the actual needs, that is, to the number of dependents for as long as they are not in a position to assume proper responsibility for their own lives.” (Paragraph 18)

15. The last passage in this extract from *Laborem Exercens* is of particular importance in the present case. It reflects the emergence during the 20<sup>th</sup> century of various kinds of governmental payments. A just wage, or just remuneration, can be given by way of a family wage or by the worker's wage and other payments that cover, in whole or in part, the needs of the worker's family. Where the family receives a combination of payments, the total must be sufficient for the needs of the family.

### **The Roles of the State and Unions**

16. In *Laborem Exercens* a distinction is drawn between the “direct employer” and the “indirect employer”. The use of the term indirect employer arises from the fact that the employment relationship (between the direct employer and the worker) is affected by institutions and persons outside the immediate parties to the contract of

employment. The indirect employer includes, especially, the State. The encyclical identifies various obligations that fall to the State. The provision of employment is one of the most fundamental:

“When we consider the rights of workers in relation to the “indirect employer”, that is to say, all the agents at the national and international level that are responsible for the whole orientation of labour policy, we must first direct our attention to *a fundamental issue*: the question of finding work, or, in other words, the issue of *suitable employment for all who are capable of it*”. (Paragraph 18)

17. The worker has other “inalienable rights”. Those rights include the right to just remuneration for work done, referred to earlier, and the “right of association”. Catholic social teaching recognises the rights and obligations of workers to co-operate to participate in their own employment and to advance their own interests. Under the heading “Importance of unions”, John Paul II wrote in *Laborem Exercens*:

“All these rights, together with the need for the workers themselves to secure them, give rise to yet another right: the *right of association*, that is to form associations for the purpose of defending the vital interest of those employed in the various professions....

Catholic social teaching does not hold that unions are no more than a reflection of the “class” structure of society and that they are a mouthpiece for a class struggle which inevitably governs social life. They are indeed *a mouthpiece for the struggle for social justice*, for the rights of working people in accordance with their individual professions.” (Paragraph 20)

18. It is the function of the State to establish a framework in which work is made available and under which fair wages (to support the worker and his or her family) are to be paid. Another of the obligations of the State is to provide a legal structure in which workers can co-operate to advance their common interests. The role of unions and worker solidarity are especially important in Catholic social teaching because the State is not seen as being under an obligation to prescribe all of the terms



of the employment relationship. In 1993 the Australian Catholic Bishops' Committee for Industrial Affairs published "*Industrial Relations - The Guiding Principles*" which referred to the obligation of the State as the indirect employer:

"In circumstances of exploitation and coercion, the indirect employer must provide opportunities for the just settlement of disputes. They also may think it wise to set down a code of minimum standards of wages and conditions based on respect for the dignity of each human person engaged in the workplace and cognisant of the needs of the worker and his or her dependents". (Page 5)

### **"Work" in Catholic Social Teaching**

19. The Catholic Church's concern with employment relations arises from the inherent dignity of the individual and from the nature and purpose of work.

"Man must work, both because the Creator has commanded it and because of his own humanity, which requires work in order to be maintained and developed. Man must work out of regard for others, especially his own family, but also for the society he belongs to, the country of which he is a child, and the whole human family of which he is a member, since he is the heir to the work of generations and at the same time a sharer in building the future of those who will come after him in the succession of history. All this constitutes the moral obligation of work, understood in its wide sense." (*Laborem Exercens*, paragraph 16)

20. In "*Industrial Relations - The Guiding Principles*" the Australian Catholic Bishops' Committee for Industrial Affairs summarised Church teaching on the nature of work:

"Work is a principal means by which human kind seek their personal fulfilment and make their contribution to the common good. Thus there is a natural priority of labour over capital. Simply expressed, work exists for the person, not the person for the work. It follows that human work cannot be treated as a resource or as a commodity to be traded in like any other commodity .... Every family has the right to sufficient income through work. Workers have the right to just minimum wages and to just and safe working conditions." (Page 2)

21. Work is not to be narrowly defined. Most importantly, work within the family and the home and charitable works have an equally high value even though they are outside an employment relationship.
  
22. An obligation of organised society, in particular the State, is to establish, encourage and maintain work opportunities. There is an obligation on individuals to perform work where, and to the extent, they are able to do so. In the case of a worker, the obligation to work co-exists with the entitlement to receive a just wage and other basic benefits. The State is under an obligation to ensure the payment of just wages. The obligations of the State and the worker are interlocking and reciprocal. They must go together. The withdrawal or threatened withdrawal of welfare benefits for the purpose of inducing people to return to the paid workforce is a contemporary issue of some importance, in particular, in regard to adults with family responsibilities. As noted, work within the family and the home is equally important. Governments must ensure that they do not place unreasonable pressure on welfare recipients and on those who choose to look after their children and/or elderly or incapacitated relatives to enter the paid workforce.

### **The Impact of Globalisation**

23. The impact of globalization on Australian workers and firms has been accentuated by the dramatic reduction in tariff levels and other forms of industry protection over the last two decades. Catholic social teaching has addressed international trade and globalisation and the impact that they have on the lives of workers and families in the diversity of countries affected by these issues. It is especially concerned with the

position of the poor in the developing world and the capacity of trade to improve their circumstances.

24. Australians have been especially aware of the opportunities and challenges of an open economy since the 1980s. There has been a degree of bi-partisan support for the progressive reduction of tariffs and exposing Australian industry to international competition. The implementation this year of the free trade agreement between Australia and the United States has again highlighted the impact that the changing international economic relations will have on Australian employment.
25. The issues and consequences of free trade agreements have been an issue of substantial concern to the Catholic Church in the United States. The issue was addressed in the Labor Day Statement of 6 September 2004 by Cardinal Theodore E. McCarrick, Archbishop of Washington and Chairman of the Domestic Policy Committee of the United States Conference of Catholic Bishops:

“Pope John Paul II has called for the “globalization of solidarity,” inviting us to resist a zero-sum game that separates our brothers and sisters in the U.S. into winners and losers (*Ecclesia in America*, Jan.22, 1999, #55)....

As a global Church, we believe in building bridges and crossing boundaries in order to share both our needs and our gifts. Arguments that focus simply and exclusively on the likely domestic impact of trade are far too narrow. At the same time, U.S. workers and their families must be able to earn a decent living and, when necessary, adjust to the requirements of job changes and dislocation. As Pope John Paul II reminds us: “All must work so that the economic system in which we live does not upset the fundamental order of the priority of work over capital, of the common good over private interest.” (*Jubilee of Workers*, May 1, 2000).

Effective steps should be taken to minimize serious negative impacts on workers affected by trade and development. No one at home or abroad should be forced to sacrifice their right to work, their ability to

raise a family or their authentic cultural expressions because of the demands of the market. By ignoring these values, trade policies can fall short of their true potential and, as the Pope has said, “the weakest, the most powerless and the poorest appear to have so little hope!” (*Ecclesia de Eucharistia*, April 17, 2003, #20). We must always remember that trade agreements and economic policies are not pre-ordained laws of nature, but are created by people and governments. Their goal must be to promote the dignity of work and the rights of workers.” ([www.usccb.org/sdwp/national/ld04.htm](http://www.usccb.org/sdwp/national/ld04.htm))

26. The development of open economies will continue to present challenges to employment, wage levels, social equity and national cohesion. In responding to these challenges it must be remembered that the justification for Australia entering into free trade agreements is the increased national wealth and productivity gains that come from increased trade. As a matter of fairness and justice, part of this wealth must be made available to support the workers (both present and future) whose jobs and standard of living are threatened by the changes. The public policy response will involve wages policy (especially minimum wage rates), taxation rates and welfare benefits.

### **The ACTU claim**

27. The ACTU claim has been supported by documentary evidence and written submissions. Parties opposing the claim have yet to file their responses. Some of the points of the ACTU’s case are:
  - Award only employees now make up 19.9% of employees, a decrease from 20.5% in 2002.
  - Award only employees are most heavily concentrated in the following industries: retail trade (22.6%), accommodation, cafes and restaurants (17%), health and community services (15.5%) and property and business services (13.7%).

- Award only employees are concentrated in lower skilled occupations with 78% in classifications considered to have skill levels below trade levels.
- Award only employees are more likely to be women and working part time and more than twice as likely to be employed on a casual or casual part-time basis.
- Award only adult full time employees earn only 68% of average weekly ordinary adult full time earnings.
- In 2000-2004, a period of strong economic growth, the real wages of award only workers remained static. Full time award only employees have recorded a statistically insignificant 0.1% real growth in wages.
- Since 1983 the Federal Minimum Wage has declined as a proportion of average weekly ordinary full time adult earnings: from 60.9% in 1983 to 49.1% in 2004.
- Since 1996 Australia has outperformed the rest of the developed world in Real Gross Domestic Product growth.
- The wages and profit shares of total factor income have continued to change in favour of the profit share.
- The Gross Operating Surplus increased by 1.5% during the September quarter 2004 to be 8.1% higher than at the same time a year earlier.
- The granting of the ACTU claim will provide a real increase in the Federal Minimum Wage of 3.5%. If the increase is granted in full the average annual real increase since 2000 will be a mere 1.1%.
- In the period 1996 to 2004 in the three most award dependent industries output has exceeded or equated growth in Gross Domestic Product and continues to grow well in excess of real wages growth of the Federal Minimum Wage.
- The ACTU's estimated costing shows:
  - a net impact on aggregate wages of 0.11%;
  - a gross impact on aggregate wages of 0.41%; and
  - an impact on the Consumer Price Index of 0.06%.

### **ACCER's Response**

28. ACCER's major concern in these submissions is to address the level and operation of the Federal Minimum Wage and other award rates of pay for low paid workers. It will be supplemented by oral submissions at the hearing of the case and after the filing of the written submissions from the Commonwealth, the States and employer

organisations. ACCER submits that, at the least, the term “low paid” extends to workers on trades-qualified (or equivalent) rates, ie it at least extends to workers who are presently on an award rate of \$561.20 per week before tax.

29. ACCER recognises that the Commission has given emphasis to lower paid workers in recent years. A large part of the capacity of the economy to deliver wage increases has been directed towards those who are most in need. In Safety Net Review Cases since 1997 the weekly Federal Minimum Wage has increased by \$10.00 (1997), \$14.00 (1998), \$12.00 (1999), \$15.00 (2000), \$13.00 (2001), \$18.00 (2002), \$17.00 (2003) and \$19.00 (2004).
30. ACCER supports the ACTU claim for an increase in the Federal Minimum Wage by \$26.60 per week. ACCER believes, however, that the proposed increase of \$26.60 in the Federal Minimum Wage would still be insufficient to provide a fair minimum rate of pay for workers paid at that rate. It sees the proper adjustment of the Federal Minimum Wage as being an ongoing process.
31. Apart from the Federal Minimum Wage, ACCER’s support of the ACTU claim is qualified. In the absence of the claim being granted in full (and no past claim has been), ACCER would not support a uniform increase across all award classifications. The increases granted should be mainly directed to those who are most in need. The primary beneficiaries should be those at the lower paid classifications. They are the most in need of a substantial increase in wages.

### Poverty and the Low Paid

32. In past Safety Net Review Cases some attention has been given to the meaning of poverty and to the relationship between measures of poverty and wage rates. In its written submission in the 2004 Safety Net Review Case ACCER adopted a definition previously advanced by the Australian Council of Social Services:

“Poverty is an enforced lack of socially perceived necessities.

This definition, and most others in poverty research, has three core elements:

- a lack of necessities;
- that necessities are socially defined;
- that the lack of necessities is caused by limited material resources.”

(ACCER 2004 written submission, paragraph 36).

33. ACCER has previously raised the issue of the relationship between the poverty line and the Federal Minimum Wage. The Commission responded to this aspect in its decision in **Safety Net Review - Wages, May 2003**, Print PR002003, (“the 2003 SNR Decision”):

“In this context we also note that in their oral submissions ACCER argued that the Commission must ensure the minimum rates it sets (and in particular the federal minimum wage) do not fall below the poverty line. It was put that this task involved determining questions such as *“what are needs, who are the low paid, what is the poverty line, what is living in poverty and how does the federal minimum wage compare to the poverty line?”* We acknowledge the relevance of the questions posed by ACCER and would be assisted by submissions and material directed to them. As we have already noted empirical studies dealing with these matters would be of more assistance to the Commission in addressing the specific matters mentioned in the Act than the type of illustrative evidence adduced by the ACTU in these proceedings.” (Paragraph [222])

34. ACCER addressed these questions in its written submissions to the 2004 Safety Net Review Case. In its response to the last two questions in the foregoing passage

ACCER made reference to material then before the Commission, the “SPRC” material (material that is referred to later in these submissions):

“We now turn to the two remaining questions from last year’s case. The answers to these questions are to be found in the SPRC material that is now before the Commission. It identifies and quantifies a relevant poverty line. The SPRC low cost budget is clearly the best empirical material available to the Commission for the purpose of identifying a bare minimum standard of socially perceived necessities. However, the bare minimum standard is not a sufficient standard for the purposes of wage-fixing. A fair minimum standard for workers and working families must be something in excess of that identified standard. It must recognise and reward the work performed by providing a higher standard. The material demonstrates a considerable gap between the current Federal Minimum Wage and its appropriate level. It supports the claim made by ACCER last year that the Federal Minimum Wage is manifestly inadequate. The claimed increase of \$26.60 is a modest first step in the transition to a fair minimum wage as required by the Act.” (ACCER 2004 written submission, paragraph 50)

35. ACCER accepts that there will be debate about the size of the wage packet necessary to meet the needs of the low paid. But there is an obligation on all to take seriously the task of understanding and identifying those needs. These matters are referred to later.

### **The Legislative Framework**

36. In Australia the needs of low paid workers and their families are principally addressed by the combined decisions of the Commission and the Commonwealth Government. This reality may generate some confusion in the minds of some in regard to the appropriate responsibilities of each. It is important to understand the Commission’s role under the Commonwealth **Workplace Relations Act 1996** (“the Act”) and the Commonwealth Government’s capacity through its Budget to have an impact on wage decisions. The Commission is an independent statutory tribunal established under the Commonwealth’s power in section 51 (xxxv) of the Australian



Constitution to make laws with respect to “conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of say one State”.

37. Under the Act the industrial awards made by the Commission are meant to operate as safety nets, above which the parties are able to bargain. Bargaining agreements can be collective (“union” and “non-union”) or individual, but they must meet the no-disadvantage test under Part VIE of the Act before they can have legal effect. Safety net awards are used in the application of the no-disadvantage test. As the Commission said: “Bargaining is not a practical possibility for employees who have no bargaining power”; **Safety Net Review - Wages, May 2004** (Print PR 002004) (“the 2004 SNR Decision”) paragraph [325]. These workers may be referred to as “award only” workers.
  
38. The Commission has a number of legal obligations placed upon it in the exercise of its wage-fixing powers. It has a particular obligation in relation to the making of safety net awards. Section 88B(2) is introduced by a *command*: the Commission “must ensure that a safety net of fair minimum wages and conditions of employment is established and maintained”. That subsection requires the Commission to “have regard to” three matters:
  - “(a) the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community;
  - (b) economic factors, including levels of productivity and inflation, and the desirability of attaining a high level of employment;
  - (c) when adjusting the safety net, the needs of the low paid.”

39. Under section 88B(2)(a) the Commission is to have regard to the *need* for, not the *desirability* of, fair minimum standards. Importantly, the object is fair minimum standards, not bare minimum standards. There must be some appreciation of the living standards generally prevailing in the Australian community. The Commission should not fix a poverty wage. It would be failing in its duty if it merely had regard to bare minimum standards in setting the Federal Minimum Wage. Something more is required.
40. Section 88B(2)(b) introduces an obligation to have regard to “economic factors, including levels of productivity and inflation, and the desirability of attaining a high level of employment.” It is concerned with macroeconomic matters.
41. What are the implications of the obligation in section 88B(2)(b) in the adjustment of minimum wages? In order to consider the question it is important to recognise that award only workers have that status because they do not have the industrial strength or particular personal circumstances or attributes to negotiate the benefits of the bargaining system. Bargaining leads to various kinds of agreements based on the particular circumstances of the employers and workers, including the ability of an employer to pass on cost increases. The bargaining sector is not concerned with some of the economic factors to which the Commission is to have regard. Section 88B(2)(b) requires the Commission to consider any connection between its decision in relation to award only workers and those macroeconomic matters. ACCER submits that an assessment of the employment impact of wage increases for award only workers has to be assessed by reference to the circumstances of those sectors of the economy in which award only workers are found. The ACTU material referred to

at paragraph 27, above, shows that 68.8% of award only workers are in four industry groupings: retail, accommodation cafes and restaurants, health and community services and property and business services.

42. On the question of whether wage increases may impact on employment levels, in the SNR Decision 2004 the Commission said:

“As the Commission has done in safety net review decisions in recent years, we have had regard to the fact that substantial safety net adjustments may have some negative effects on employment in those sectors of the economy in which a high proportion of the workers are award reliant. The Commission is obliged to take into account the desirability of attaining a high level of employment. While this is an important issue we think that economic conditions generally, including the level of domestic demand, indicate that a significant increase is sustainable on this occasion. The limited arguments and materials advanced in this case for the proposition that past safety net adjustments have had a significant negative effect on employment were unconvincing. We also consider that any potential negative effects must be weighed against the real benefits of safety net adjustments for the employees who depend upon them for increases in wages, particularly low paid employees.” (Paragraph [323])

43. Section 88B(2)(c) introduces an element of preference in favour of the low paid. The Commission is required, “when adjusting the safety net, [to have regard to] the needs of the low paid.” In order to have regard to the needs of the low paid, the Commission is required to identify the needs of the low paid. It is important to note, however, that the needs of the worker and the worker’s family do not limit the amount that may be awarded under section 88B(2). Whether, and to what extent, a fair and reasonable wage exceeds that which is required for the minimally acceptable needs of that family will depend upon the macroeconomic matters set out in section 88B(2)(b). Pay increases may be granted without the proper identification of the

needs of the low paid, but the achievement of a fair wage and just wage requires that it be done.

44. Sections 88B(1) and (3), 90 and 93A of the Act impose other statutory obligations on the Commission when it exercises its award-making powers.
45. Section 88B(1) requires the Commission to perform its functions in relation to award-making in a way that furthers the objects of the Act and, in particular, the objects of that part of the Act which sets out the Commission's award-making powers. One of the stated objects is "to *ensure* that ... awards act as a safety net of fair minimum wages and conditions of employment ..."; section 88A(b) (emphasis added). Section 88B(3) requires the Commission to have regard to a number of specified matters when exercising its award-making powers, but they are not presently relevant.
46. The Commission has a general obligation under section 90 to act "in the public interest". This is a broad test. The Commission has regarded this section the one that requires it to have regard to, amongst others, the potential impact of award wage increases on employment opportunities and unemployment levels. The Commission has rejected past submissions that these considerations arise under the "needs of the low paid" provision in section 88B(2)(c).
47. There is a further aspect of this case that needs to be considered under the public interest. It was referred to in the ACCER 2004 written submission. As noted earlier, the bargaining sector is not required to apply the macroeconomic considerations raised in section 88B(2)(b). The bargains made by employers and workers will

reflect their mutual interests and/or industrial capacities. ACCER submits that a matter to be taken into account in the determination of the public interest is that award only workers should not bear the burden of macroeconomic goals and should not bear the burden of compensating for any adverse macroeconomic effects arising in the bargaining sector.

48. The Commission is also required by the Act to have regard to, and not act inconsistently with:

- (a) the objects of the Act as set out in paragraphs (i), (j) and (k) of section 3; and
- (b) section 93A of the Act and the Family Responsibilities Convention.

These obligations may be described as the “family responsibilities obligations”.

49. The family responsibilities obligations reflect the Parliament’s concern to protect and advance the proper interests of workers and their families, to strike a balance between work and family, to prevent discrimination against those with family responsibilities and to ensure that awards give effect to these *values*. The relevant statutory provisions are in sections 3 and 93A:

Section 3 provides:

“The principal object of this Act is to provide a framework for cooperative workplace relations which promotes the economic prosperity and welfare of the people of Australia by:

....

- (i) assisting employees to balance their work and family responsibilities effectively through the development of mutually beneficial work practices with employers; and
- (j) respecting and valuing the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour,

sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin; and

- (k) assisting in giving effect to Australia's international obligations in relation to labour standards."

Section 93A provides:

"In performing its functions, the Commission must take account of the principles embodied in the Family Responsibilities Convention, in particular those relating to:

- (a) preventing discrimination against workers who have family responsibilities; or
- (b) helping workers to reconcile their employment and family responsibilities."

50. The Family Responsibilities Convention is a Convention of the International Labour Organisation and includes the following in its preamble:

"Recognising that the problems of workers with family responsibilities are aspects of wider issues regarding the family and society which should be taken into account in national policies ....

Considering that many of the problems facing all workers are aggravated in the case of workers with family responsibilities and recognising the need to improve the conditions of the latter both by measures responding to their special needs and by measures designed to improve the conditions of workers in general ...."

51. The family responsibilities obligations must have relevance to the setting of award wages and, therefore, to the present case. ACCER submits that the Commission is required to take into account the needs of both workers and their families. In this context, ACCER submits that the family should be able to be supported by a single income and the second parent should not be obliged to undertake employed work in order to achieve what is a minimally acceptable standard of living for Australian families. In assessing the needs of the family the Commission is obliged to take into

account the number of children ordinarily in Australian families. ACCER submits that it should be based on two children. In complying with this obligation the Commission may take into account the taxation and other benefits received by families.

### “Harvester”

52. The fixing of a minimum rate of pay by an independent statutory tribunal has been part of Australian life since the early days of Federation. Following the 1907 judgment in what is known as the **Harvester Case** (1907) 2 CAR 1, (“**Harvester**”), the Basic Wage prescribed by industrial awards (in both Federal and State jurisdictions) was based on an assessment of the needs of a family of five supported by a sole (male) breadwinner. **Harvester** itself was a case arising under the **Excise Tariff Act 1906** and concerned the ability of employers to obtain exemptions from the imposition of excise duties on their goods if they paid their workers “fair and reasonable wages”.
53. The **Harvester** “Living Wage” became a central feature of employment regulation in Australia and became part of the fabric of Australian life. Its expression was a product of that society, ie the male breadwinner and the family of five, but its substance was fundamental and enduring. The Living Wage was important because it recognised the need to fix fair and reasonable wages, the need for workers to live in dignity and the need for the worker to be provided with a wage sufficient to support a family. *Rerum Novarum* found a contemporary expression in the Living Wage. The principles in *Rerum Novarum* also played a role in its widespread acceptance. The

“Pastoral Letter of the Australian Catholic Bishops to Commemorate the Centenary of *Rerum Novarum*” referred to this aspect:

“The publishing and dissemination of *Rerum Novarum* in 1891 coincided with a period of serious social, political and industrial upheaval in Australia. At the time, the Archbishop of Sydney, Cardinal Moran, was seen as one of our country’s outstanding defenders of the rights of the workers, many of whom were suffering from the very kind of exploitation denounced by Pope Leo XIII. A number of the lay Catholics who contributed to the historic growth of those political and industrial organisations which were created to win a more just deal for working people in the following years and the early decades of the 20<sup>th</sup> Century, were influenced by *Rerum Novarum*.”

### **Government Financial Support for Workers and their Families**

54. In the early 20<sup>th</sup> century the wage packet was required to provide for the *total* support of the worker and the worker’s dependants. It was not supplemented by a welfare system. The importance of the wage in the support of the family has declined, particularly in the last 20 years. This change is illustrated by figures given by Dr Michael Keating:

“... in January 2003 a single income family with a dependant spouse and two children under five, earning two thirds of average male earnings and renting privately, received 46 per cent of their disposable income from government transfers. By comparison these transfers accounted for 41 per cent of that family’s income in January 1996, but only 4 per cent of their income in January 1983.” (“The Case for Increased Taxation”, page 9; Academy of the Social Sciences, 2004; Occasional Paper Series No. 1.)

55. The substantial increases in non-wage financial support to workers and their families, part of the “social wage” as it has sometimes been described, came about as a result of a change in Commonwealth government policy in the 1980s. It was initiated by a policy of wage restraint by unions and the adoption of “centralised” wage fixing principles and procedures in the Commission that resulted in carefully controlled



wage increases. That centralised system has gone, but the legacy endures. There has been substantial bi-partisan support for the provision of family support payments by the Commonwealth Government. These payments are consistent with Catholic social teaching which, as noted earlier, recognises that the just wage may be by a family wage, or by the worker's wage and "social measures".

56. The increased social wage has, however, been accompanied by a reduction in the relative value of award rates of pay for low paid workers. As noted earlier, the ACTU's 2005 written submission refers to the changes in the Federal Minimum Wage (which includes its predecessor award equivalents) since 1983. As a proportion of average weekly ordinary full time adult earnings, the Federal Minimum Wage has declined from 60.9% in 1983 to 49.1% in 2004. This is a very substantial decline. A return to the 1983 relativity would require a 24% increase, from \$12.30 to \$15.25 per hour.
57. The Commonwealth's support for families was increased by its 2004-5 Budget announced in May 2004. Substantial changes were made to Family Tax Benefit A and Family Tax Benefit B. There were other initiatives affecting families. Overall, the Treasurer costed the Budget's "family package" at \$19.2 billion over five years.
58. The ACTU submission includes research on the impact of the changes in the 2004-5 Budget across various household categories. In households comprised of couples and their children and in receipt of a weekly taxable income in the range \$450 to \$599, the gain in disposable income as a result of the Budget changes was

5.4%. The gain was 9.1% in similar households but with a weekly taxable income in the range \$300 to \$499.

59. The impact of the 2004-5 Budget on families can also be illustrated by reference to the single income family where the breadwinner is on the Federal Minimum Wage, the other parent stays at home and where one child is aged six and the other is aged 14. The annual wage (52.18 weeks) for such a worker is \$24,388. The family assistance by way of Family Tax Benefits A and B amounts to \$10,582. (These figures are available on line from the Commonwealth Family Assistance Office. Other benefits, such as rent assistance, are also available to low income families.) As is shown later (at Table 1), the underlying after tax income for this worker is \$21,023 per year. The family tax benefits take the illustrated family's disposable income to \$31,605 per year. These arrangements mean, in effect, that the worker in the example given has an after tax wage of \$605.69 per week or \$15.94 per hour. ACCER contends that this is an insufficient "composite family wage".
60. The family benefits changes in the 2004-5 Budget were widely welcomed. However, as the ACTU submissions have pointed out, low paid workers not in receipt of family benefits did not benefit from the Budget by tax cuts. Tax cuts in the 2004-5 Budget only applied to higher income earners. Workers receiving less than \$52,000 per year did not receive tax cuts. In these respects the Budget had a differential impact on low paid workers.
61. Family assistance measures in the last two decades have been accompanied by fundamental economic change. In general terms, for the best part of a century after

Federation, the wages of Australian workers and Australia's employment levels were supported by tariff levels. The costs of this support were borne by Australians as consumers. Now the incomes of many workers and their families are being supported by Australians as taxpayers. A substantial part of the cost of supporting workers and their dependants has moved from the employer to the taxpayer, from the wage packet to the public purse. However, the obligation to pay a just wage, with appropriate recognition of transfer payments, remains with the employer.

### **Taxation Levels**

62. The taxation to be paid by a worker on the Federal Minimum Wage, without having regard to any family benefits that may be payable, is illustrated in Table 1:

Table 1

	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005
Weekly Gross Income	400.40	413.40	431.40	448.40	467.40
Annual Gross Income	20,892.87	21,571.21	22,510.45	23,397.51	24,388.93
Gross Annual Tax	2,647.86	2,851.36	3,133.14	3,191.25	3,488.68
Less Low Income Offset	142.29	115.15	77.58	163.10	123.44
Net Annual Tax	2,505.58	2,736.21	3,055.55	3,028.15	3,365.24
Annual Net Income	18,387.29	18,835.00	19,454.90	20,369.36	21,023.69
Tax as % of Gross	11.99%	12.68%	13.57%	12.94%	13.80%

Notes:

- The annual gross income is calculated on 52.18 weeks.
- The weekly gross income is assumed to have commenced at the start of the financial year.

- The table incorporates changes in the tax threshold and the low income tax offset that commenced on 1 July 2003.
  - The figures do not include the Medicare Levy.
63. Table 1 demonstrates the substantial level of taxation for the Federal Minimum Wage worker. This is most significant in regard to wages and taxation policies. At present the worker on the Federal Minimum Wage pays tax of \$64.49 per week or \$1.70 per hour. This means \$1.70 of the hourly wage of \$12.30 is paid in tax. The net hourly rate is \$10.60.
64. In a system where the wages of the low paid workers are aligned with the cost of their basic needs a serious question arises as to whether they should pay income tax and, if so, how much they should pay. Low paid workers may be “taxed into poverty”. Does the after-tax figure of the low paid worker provide an adequate living standard? A negative answer presents a moral question. But, it is more than a moral challenge. From an economic point of view any reduction in tax for these workers would have a positive economic benefit because the adjustment of a wage based on an assessment of needs may then be less than it would otherwise be.
65. The *marginal* tax rate applied to low paid workers also has to be considered. Table 1 demonstrates that the underlying *average* tax burden on the Federal Minimum Wage worker is 13.80%. That worker’s marginal tax rate is considerably higher. The income in excess of \$21,600 earned by low paid workers is taxed at 30%. There is a low income tax offset of \$235 per year, but it is phased-out over the income range \$21,601 to \$27,475 per year at the rate of 4 cents for each dollar earned. Because the low income tax offset is phased-out at \$27,475 per year it is unavailable to many low paid workers. The worker on the Federal Minimum Wage only receives \$123.44 per

year by way of this offset. It equates to \$2.37 per week or 6.2 cents per hour. The low income tax offset is a means of targeting the needs of the low paid, but at present rates it has limited value.

66. Another aspect illustrated by Table 1 is that the percentage of tax paid by Federal Minimum Wage workers is higher than it was when the Commonwealth's *New Tax System* (which included the introduction of the Goods and Services Tax) commenced on 1 July 2000. If the initial percentage of tax were to be applied, tax payable on the current Federal Minimum Wage would be reduced from \$3,365.24 to \$2,924.23, a difference of \$441.01. A reduction in tax of \$8.45 per week would be required to put these workers on the same average taxation rate as they were in July 2000.
67. In the current debate about taxation rates some argue that the top marginal tax rate, the rate that applies to the wealthiest in the community should be reduced from 47% to 42% or 39%. It is said they should be given incentive to work and a reward for working. That argument applies no less in the case of low paid workers. There is a strong case, on the grounds of incentive and reward in support of tax relief for the low paid. Such a change would also have an impact on the ability of the award wage to meet the needs of the low paid.
68. The presence of high income tax levels is relevant to the question of whether (and, if so, to what extent) wage levels affect employment opportunities. In past cases it has been argued by some that pay increases reduce employment opportunities. If, as some have claimed, there is a relationship between wage and employment levels, then the appropriate policy response would include addressing the taxation rates applying to low income earners. Because of the relationship between wage levels of low paid

workers and their needs, income tax levied on low paid workers may be seen as a tax on employment if there is a connection between wage and employment levels. There is a moral and economic case to reduce the income tax on low income workers.

### **Effective Marginal Tax Rates**

69. Family benefits have been fashioned to operate in favour of lower income workers and their families, with the benefits being phased-out as incomes increase. That there should be a phasing-out of these benefits is generally accepted. But there is debate over the phasing-out rates, about the income range over which the benefits are paid. The combined effect of taxation and any phasing-out of income-tested family benefits reduce the amount of any pay increase. The combined operation of these two features has been described as the effective marginal tax rate. A pay increase will also result in a greater proportion of the worker's salary falling into a higher tax bracket.
70. A wage increase may result in reduced government benefits. However, this is not always the case. Reference was made earlier to the family tax benefits available to a worker on the Federal Minimum Wage in a single income household. The granting of the ACTU claim in full would not affect that family's tax benefits because the maximum benefit under Family Tax Benefit A is payable up to \$32,485 per year and the Family Tax Benefit B is unaffected by the salary level of the single wage earner. Nor would the position of the trades-qualified worker be affected; his or her annual award wage of \$29,283 is substantially lower than \$32,485 per year. In these cases the effective marginal rate of taxation is the actual rate of taxation, ie 30%.

71. The impact of taxation and income-tested transfer payments on award pay increases has, nevertheless, prompted some to argue that wage increases are “inefficient” and that tax relief should be given rather than pay increases. Their argument amounts to a claim for a further change in the balance between the public purse and wage packet to meet the needs of the low paid than wage increases. Consistency with that position should see them as public advocates for substantial tax cuts for the low paid. Changes to tax rates and the phase-out rate for family benefits would improve the position of low paid workers. Whether government responds or not, the Commission has to work within the framework of taxation rates and family benefits fixed by Parliament when fixing a fair minimum award rate of pay.

### **Identifying the Worker’s Needs**

72. ACCER submits that the needs of the low paid include the needs of their dependants and that a family wage should be fixed. ACCER has said in successive Safety Net Review cases that government family payments and a single Federal Minimum Wage are together insufficient to provide an appropriate standard of living for the workers and their families. The deficiency is not limited to those on the Federal Minimum Wage. It extends to those in higher paid classifications. ACCER cannot support the “single person” measure of need because government transfers are not sufficient to meet the combined needs of a worker and the worker’s dependants. In its 2004 written submissions, ACCER said:

“The adoption of the single person test would cause substantial harm and prejudice to low paid workers and their families and would exacerbate the social deprivations that they already suffer.

The substantial, but insufficient, contribution that the public purse makes to low-income families is not a reason for avoiding the obligation to fix

wages partly by reason of the needs of the wage earner's dependants. The wages should be based on the prevailing tax provisions and relevant government payments." (Paragraphs 34-5)

73. The importance of the family as the basis upon which the Commission should determine the "needs of the low paid" is revealed in research data referred to in the ACTU's submission; paragraph 7.68 and following. That research data is included in the SPRC material (referred to later in these submissions), estimates the cost of achieving two identified living, or budget, standards. The cost at the "Modest But Adequate" budget standard at June 2002 prices was \$436.10 per week for a single male household and \$840.60 for a household comprising a couple with two children, a difference of \$404.50 or \$21,106 per year. At the lower standard, the "Low Cost" budget standard, the difference was \$337.70 per week or \$17,621 per year. Adjusting those figures by 7% to reflect the approximate price movements since June 2002, the extra annual costs for the family are \$22,583 (Modest but Adequate) and \$18,854 (Low Cost).
74. As was demonstrated earlier (at paragraph 59), the transfer payments for the worker on the Federal Minimum Wage with three dependants (spouse and two children) can be substantial. But substantial as they are, family payments fall well short of meeting the needs of the worker's dependants. It is evident that family benefits available to the low paid have not been fixed on the basis that they will cover the living costs of the dependants of low paid workers.
75. In the 2004 Safety Net Review Case ACCER argued that the determination of the needs of the low paid should be made on the basis of the need of a family of two adults and two children, with only one adult working. There are two aspects to this



argument: the family is to be taken as in receipt of one wage only and the needs are to be assessed on the basis of two children.

76. In referring to the debate in 2004 about the range of “household types” within Australia the Commission said: “Whilst a significant proportion of Australian families continue to rely upon a single wage as their sole source of income, the needs of single income families will continue to be relevant in connection with consideration of the needs of the low paid”: 2004 Safety Net Review Case, paragraph [275].
77. The **Harvester** Living Wage was based on a family of three children. ACCER’s submission is that, having regard to the number of children in contemporary Australian families, the figure should be two. Because the costs of raising children vary over the years a degree of averaging is required in order to cover age-related variations in costs.
78. If one accepts (as one should) that the sole income earner within a family may be male or female (and that the parent earning the family income may change from time to time) there is no issue about the relative roles of men and women. The wage should enable the mother to work and the father to stay at home if they so wish or for both parents to share full time paid work between them.
79. These are fundamental matters about the basis on which the needs of the low paid are to be fixed and about which there should be no ambiguity. If any party or intervener in this case contests that wages are to be assessed on any other basis to that set out above it should say so to the Commission and provide its reasons.

80. What account should be taken of transfer payments? The ACTU's written submission deals with the treatment of transfer payments. After referring to the taxation and family tax benefit measures in the 2004-5 Budget the ACTU provides a table (Table 7.7) setting out the consequential gains in disposable income by various household or family types over various income levels. It demonstrates, in part, that single adults paid under \$900 per week received no benefit as a result of the Budget.
81. The ACTU submits that "there is no statutory direction to discount wages for social wage factors"; paragraph 7.55. In order to advance its case that the transfer payments should be disregarded the ACTU refers to data showing that "couple families with dependent children" form a minority of households. It submits that "this should be taken into account when interpreting the impact of Budget changes, effective marginal tax rates or the income support system"; paragraph 7.66.
82. ACCER disagrees with this part of the ACTU submission. The legislation requires the Commission to take into account the needs of the low paid. If the worker's needs are partly met by transfer payments to which they are entitled, then their needs are met to that extent. In principle, there is no difference between the treatment of transfer payments and the treatment of taxation. The taxation that workers are bound to pay should also be taken into account when fixing rates of pay, ie the Commission should have regard to the after-tax position of the worker. Consistency requires that the Commission take the transfer payments into account.
83. One of the arguments that have been used by others in past cases is that a general wage increase is not a sufficiently "targeted" measure, or a "blunt instrument", to address the needs of the low paid, especially those with family responsibilities. Some

have identified the different needs of low paid workers. In the 2004 Safety Net Review Case the Commission acknowledged that “increases in award wages are a blunt instrument in addressing the needs of the low paid in employment” (paragraph [308]). That cannot be an argument against a pay increase, but it may be an argument that can be put to government in support of policy changes to target the areas of greatest need and address (or better address) the needs of low paid workers and their families. Changes made by government may be taken into account by the Commission.

84. A wage claim based on the needs of the worker and his or her dependants does not imply that other households do not have substantial needs. They have some needs that two parent families have, and some that two parent families do not have. The demands on single parent families are substantial; for example, despite the availability of some government assistance, child care is a substantial burden. Couples who have not yet had children need to save and prepare so they can have children. Older couples without dependants should make substantial savings for their retirement. Many single workers need to save so that they can prepare for family life. These observations are, of course, not exhaustive of the variety of circumstances faced by these workers. In all of these the wage must also allow the worker to provide for the future and acquire the personal property needed for the support of a family.

### **Quantifying the Needs of Workers and their Families**

85. As explained earlier, the legislation requires the Commission to fix a safety net of wages and conditions of employment “in the context of living standards generally

prevailing in the Australian community” and to have regard to, amongst other matters, “the needs of the low paid”. This explicit obligation on the Commission to have regard to the needs of the low paid has been in the Act since 1997.

86. In past Safety Net Review Cases ACCER and other organisations have submitted that the Commission should conduct an investigation or inquiry into the needs of the low paid and establish a benchmark against which the Federal Minimum Wage should be set. In 2003 ACCER pressed for an inquiry through which an appropriate benchmark could be established for the fixing of a fair and equitable Federal Minimum Wage under Federal awards.

87. In the 2003 Safety Net Review Decision the Commission rejected the claims by ACCER and the Australian Council of Social Services for an inquiry to be conducted into these issues; paragraph [222]. However, the Commission indicated its preparedness to consider further material:

“Our rejection of the proposals for an inquiry should not be taken as a rejection of the utility of empirically determined “benchmarks” such as the poverty line. Indeed, it seems to us that the use of such measures is relevant to an assessment of the needs of the low paid ...

There is no impediment to ACOSS and ACCER, or any other party, bringing forward such material in any future safety net review. It is not, however, desirable for the Commission to establish a separate inquiry for that purpose particularly in view of the absence of any support for the proposal from any other party or intervener.” [Paragraph [222]].

88. In 2004 the ACTU relied on very detailed statistical material on the costs of living from the Social Policy Research Centre (“the SPRC”) at the University of NSW. This is the material referred to earlier in these submissions. The research was initially commissioned by one of the Commonwealth’s departments. It identified two standards of living. The “Low Cost” budget had been developed as a standard for

unemployed families and for social security purposes. The “Modest but Adequate” budget was an attempt to describe the situation of a household whose standard of living falls somewhere around the median standard of living within the Australian community taken as a whole; 2004 Safety Net Review Case, paragraph [270]. The SPRC material showed, amongst other things, that a family of four (including a boy aged 14 and a girl aged 6) required a disposable income of \$708.70 per week to meet the “Low Cost” budget and \$867.90 per week to meet the “Modest but Adequate” budget. These amounted to \$36,980 and \$45,287 per year, respectively.

89. ACCER supported the ACTU’s use of the SPRC material on the basis that it was the best evidence available and it was sufficient. However, the material was criticised by some parties. In the ACCER 2004 written submissions ACCER said:

“ACCER anticipates criticism of the SPRC material along the lines referred to by Professor Saunders [from the SPRC] in his statement. This will require debate between the parties and appropriate responses from the Commission. Any party that is opposed to this material should indicate its proposed method of establishing the needs of the low paid. For example, if it is said that the reference to a six-year old girl and a fourteen-year old boy is not representative or appropriate for the identification of the costs in a two-child family, it is incumbent upon the critic to identify more representative or appropriate pairs of siblings.” (ACCER 2004 written submission, paragraph 48, emphasis added.)

The SPRC material was criticised by some parties. However, no contribution of the kind suggested was forthcoming and the Commission was not provided with the assistance that it could have been.

90. In the 2004 SNR Decision the Commission found there was substance in a number of the criticisms made about the SPRC material. It was not prepared to adopt the “SPRC budget standards as an Australian benchmark... [because, on] the material

presently before the Commission, we do not think that we can responsibly attempt to establish such a benchmark” (paragraph [283]). However, the Commission added:

- “Nevertheless, in our opinion, the SPRC budget standards provide an indication that for certain household types, the federal minimum wage is significantly below the amount which is necessary to provide a modest living standard for those households in the context of living standards generally prevailing in the Australian community” (Paragraph [284]).
- “The Commission will receive and consider evidence directed at establishing an appropriate benchmark for the adequacy of minimum wages in the context of a future safety net review” (Paragraph [286]).
- “The Act makes no reference to a “poverty line” but rather focuses on the issue of the needs of the low paid... However, we do not accept that the Commission could not rely upon a poverty line as a tool to assist it in determining the needs of the low paid if it had probative evidence by which a poverty line could be accurately identified” (Paragraph [287]).

91. ACCER maintains its position that the SPRC material is the best evidence available regarding the needs of the low paid, but is mindful of the views quoted in the previous paragraph. The way forward requires further research. ACCER submits that the Commission can, and should, seek to elicit the evidence it believes would enable it to identify the needs of the low paid. If it considers that further relevant evidence or information could be obtained it would be entitled to inform the parties what further evidence or information it desires. Furthermore, given its collective experience of these matters and the range of material put to it over a substantial period, the Commission is able to provide guidance to the parties about the kind of evidence that would assist it.

92. The Commission has available to it a range of inquisitorial and investigatory procedures. Its procedures permit it to provide direction on further research into the needs of the low paid, or on any other relevant matter. In particular, section 110(2)

provides that “the Commission is not bound to act in a formal manner and is not bound by any rules of evidence, but may inform itself on any matter in such manner as it considers just”. Section 111(1)(t) confers on the Commission the power to “generally give all such directions, and do all such things, as are necessary or expedient for the speedy and just hearing and determination of the industrial dispute”. These are very broad powers.

93. The material provided by the SPRC is the best starting point for the purpose of identifying the needs of the low paid. A purpose of the SPRC research was to identify a standard of living to be provided for recipients of social security, for people not in the workforce. The Low Cost budget was the identified standard. A more appropriate term may be the “Basic Needs” budget. It is a budget that can identify the needs of the low paid and the cost of them. That is only the first step. The Commission’s task is to go beyond that and fix a fair wage for work having regard to, amongst other matters, living standards in the community. The Modest but Adequate budget of the SPRC research is relevant to this process because it provides the Commission with a guide to the living standards prevailing in the Australian community. ACCER proposes that further research be directed to reviewing and updating both budget standards.
94. In 2004 there was no debate about how the Commission could better identify the needs of the low paid, with the debate being limited to the utility of the SPRC material. The lack of real debate about issues and methodologies meant that the Commission was not assisted in the exercise of its functions. ACCER submits that in 2005 the Commission should direct the parties to address these matters.

**Summary of ACCER's Submission**

95. Understanding the human dimension is vital to the determination of fair minimum rates of pay. Catholic social welfare agencies, like other agencies, have day-to-day experience of the circumstances of the unemployed, of the under-employed and of those who are employed in low paid jobs. Many people move among these three categories. The under-employed are those who rely on insufficient and irregular casual or part-time employment. They have little or no job security. The tenuous nature of their employment means that they will live a hand-to-mouth existence. There are also low paid workers in regular and ongoing employment who are unable to make adequate provision for themselves and their families. Furthermore, for many of these low paid workers there is little or no prospect of longer-term increases in pay by improving their skills.
96. The circumstances of the unemployed, the under-employed and those in full time low paid employment are similar in many respects. It would be wrong to treat them as discrete categories of workers with conflicting interests. All of them share a struggle for work, security and decent pay in one of the richest countries in the world.
97. A failure to appreciate the common interests of the unemployed, the under-employed and those in full time employment may result in simplistic and unjust proposals for the fixing of minimum wages, creating jobs and providing rewards and incentives to work. In particular, one must guard against solutions that seek to set in opposition the interests of low paid workers against the interests of the unemployed. In particular, driving down the wages of the low paid in the pursuit of creating more



employment opportunities raises both moral and economic questions. Especially relevant to these questions is the high rate of tax imposed on low paid workers: \$1.70 of the Federal Minimum Wage of \$12.30 per hour is paid in income tax and the marginal tax rate on an extra dollar is 30%. The burden of providing work for all should not fall on the low paid, but on society as a whole. The unemployed and the under-employed must be confident that the employment they seek will provide a fair and just wage and allow them live in dignity. The fair treatment of low paid workers should not be compromised.

98. The Federal Minimum Wage must meet the needs of the worker and his or her family. It should be sufficient to enable one parent to be in the paid workforce and the other to work in the home and for them to be able to support two children and achieve the minimally acceptable standard of living. The current Federal Minimum Wage is insufficient.
99. ACCER supports an increase of \$26.60 per week in the Federal Minimum Wage. In the adjustment of other award rates of pay the primary beneficiaries should be those in the lower paid classifications of the award system.
100. The Commission should provide the parties with its views on the way in which the identification of the low paid might be better addressed, including the kind of research that the parties may undertake.